



Ontario Energy Board
2300 Yonge Street, 27th Floor
P. O. Box 2319
Toronto, ON M4P 1E4
Attn: K. Walli
Board Secretary

November 6, 2017

Dear Ms. Walli

Re: **EB-2016-0003**

The Electricity Distributors Association (EDA) represents the collective voice of Ontario's local electricity distribution sector, which safely and reliably delivers power to millions of homes, businesses and public institutions. The distribution sector as a whole employs 10,000 people directly, holds \$19 billion in assets, and makes hundreds of millions of dollars annually in direct contributions to both municipal and provincial revenues.

The EDA thanks the Ontario Energy Board (OEB) for initiating the above-named proceeding and for preparing the proposed amendments to the Distribution System Code (DSC) and the Transmission System Code. The EDA's comments are provided in the two attachments to this letter. Attachment A describes the EDA's issues that are common to two or more of the proposed amendments while Attachment B is organized as a section by section review of the proposed amendments to the DSC. The EDA is striving to avoid needless repetition by structuring its comments this way and trusts that this presentation will be useful to the OEB. The EDA notes that while Attachment A can be read in isolation, Attachment B must be read in conjunction with Attachment A.

As you know, the provincial government released its Long Term Energy Plan (LTEP) on October 26. It promotes the deployment and adoption of innovation in the technology deployed, in the configuration of assets and infrastructure, and in regulatory processes while continuing to appropriately protect the consumer. The EDA suggests that the OEB consider phasing this proceeding into an initial policy development phase followed by an implementation phase and that both phases be evaluated through the appropriate lenses, including for appropriate customer protection and the 2017 LTEP. The EDA acknowledges that it is vital to bring the experience and foresight of stakeholders and practitioners to the review of the proposed Code amendments and, subsequently, their implementation. The EDA recommends codifying policy that will address the issues of the future and to having access to guidance that will be valuable to customers.

The EDA notes that Hydro One Networks Inc.'s Leave to Construct application, commonly referred to as SECTR, was the catalyst to this proceeding and was filed nearly four years ago. The OEB adjudicated phase 1 (Leave to Construct) of the SECTR proceeding, after having tested the evidence and received submissions. The EDA looks forward to the OEB scheduling the remaining activities of the public process for phase 2 (Cost Allocation) of the SECTR proceeding (i.e., commencing further discovery, scheduling final submissions) and to the OEB's adjudication of the issues.

The EDA looks forward to continuing to participate in the OEB's public process related to the proposed Code amendments, to the OEB's further review and consideration of the mechanisms set out in the Notice of Proposal to Amend a Code, and, to the OEB's adjudication of applications seeking authorization to charge rates that recover the costs of projects, like HONI's SECTR project.

Please refer any questions or comments to Kathi Farmer, the EDA's Senior Regulatory Affairs Advisor at kfarmer@eda-on.ca or at 905.265.5333.

Sincerely,

A handwritten signature in black ink, appearing to read 'Teresa Sarkesian', with a long horizontal flourish extending to the right.

Teresa Sarkesian
President and Chief Executive Officer

Encl.

Common Comments

Introduction

The EDA's Regulatory Council has focused its review on the proposed amendments to the Distribution System Code (DSC). LDCs have been engaging with their customers on the application of the DSC and on the issues that gave rise to the proposed amendments on an ongoing basis, and striving to be in accordance with the Ontario Energy Board's (OEB) First Contact metric. The EDA notes that while LDCs are able to explain the relevance and applicability of the "Beneficiary Pays Principle" they need clarity from the OEB about how the impact to the affected interests has been balanced. The EDA seeks additional clarity on several aspects of the proposed amendments including the OEB's reasoning supporting broadly applied changes (e.g., the transition from LDC discretionary provision to mandatory compliance) and through the provision of worked examples (e.g., of the different methodologies proposed to quantify the allocation of costs) so that LDCs consistently reference the drivers of change and the expected impact to consumers.

The EDA observes that the OEB's considerations will benefit from direct input by consumers and suggests that, in addition to fulfilling the Notice obligations set out in the *Ontario Energy Board Act*, the OEB also directly engage consumers. The EDA notes that OEB could, for example, engage its Customer Panel and or its Chair's Advisory Roundtable in a structured manner designed to gather clear information on the expected customer response and experience.

The EDA recognizes the benefits of working groups including the group that the OEB formed to assist in developing the policy under pinning the proposed Code amendments. As set out in the EDA's cover letter this attachment is provided to set out the concerns identified by the EDA's Regulatory Council and its members that apply to two or more proposed amendments and that this Attachment is provided in an effort to avoid repetition and to efficiently make all readers aware of the common issues.

The Beneficiary Pays Principle

LDCs recognize the steps the OEB is taking to implement and adhere to the beneficiary pays principle. LDCs are experienced in the tradeoffs associated with and arising from socializing costs. LDCs also acknowledge that their customers need accurate rates that convey sound, balanced information about the costs incurred to support them in making economically efficient choices. The EDA suggests that further consideration be given to providing an adjudicative process on the appropriate allocation of socialized costs.

Improving the alignment between the TSC and the DSC

LDCs acknowledge that the benefits of regulatory policy that treats similar interests in similar ways, and that it must be applied with full knowledge of the circumstances. Consistency is a benefit to consumers:

it supports predictability and avoids 'gaming'. LDCs caution that while the transmission and distribution infrastructure may appear largely consistent and appear to function similarly, the customer utilizes the systems differently. For example, upon connecting a load or a premise an LDC typically experiences nearly continual use of the infrastructure. If loss of load, or even a loss of customer, occurs the infrastructure is often temporarily underutilized, and for a period of time considerably shorter than the asset's technical useful life. However, when a transmitter experiences loss of customer it is typically permanent and enduring and any infrastructure dedicated to that customer is permanently unutilized.

The role of existing agreements and contracts

LDCs enter into Service Agreements with some customers and, for other customers, rely on their Conditions of Service to set out the commercial terms and conditions of the provision of service. LDCs are concerned that some of the proposed amendments may conflict with either existing legal agreements or with Conditions of Service. LDCs look forward to OEB guidance on whether the proposed Code amendments apply to future events and, specifically, if existing legal instruments are to be 'grandfathered'.

Transition mechanisms

The proposed Code amendments are silent on whether they are to take effect upon the OEB making them, or, if a transition period will be observed accompanied by transition mechanisms. LDCs are aware that at any point in time they likely are engaging with customers who will be either favourably or unfavourably impacted by proposed Code amendments. LDCs strive to avoid situations where due to timing, or any other factor, some customers will emerge as 'winners' and others as 'losers'. An example will be with respect to the implementation of basic connection service; LDCs are aware that some newly connecting customers may perceive an advantage to either accelerate their project's timelines or to delay them. The transition from the recovery of connection costs through socialized rates should be clearly analyzed, planned and rolled out to ensure that all customers are treated consistently and fairly.

The OEB could frame the issues considered in a future adjudicative process dealing with the recovery through rates of the costs of Hydro One Networks Inc.'s SECTR project to include transition mechanisms.

Apportioning transmission connection investment costs

The EDA notes that one of the strongest forms of consumer protection is the use of objective and demonstrable data to support costs allocated to customer classes, the development of rate riders, or Incremental Capital Module rate adders, among other matters. The EDA is concerned with the consumer protection measures of the Proportional Benefit methodology, noting that it relies on scenario data. The EDA notes that a traditional Cost Allocation incorporates Classification, Functionalization and Allocation

of costs and points out that the Functionalization step appears capable of fulfilling the required calculations in a defensible way and using actual data. The EDA seeks clarity of the appropriateness of adopting scenario data when assigning cost responsibility from the customer's perspective and for whether it aligns with consumer protection.

Funding Mechanisms

The EDA understands that the funding mechanisms will financially support LDCs as they cope with the financial impacts of providing contributions for transmission infrastructure and supports the Annual Installment Option.

The EDA's review of the proposed funding mechanisms would benefit from side-by-side analysis. The EDA proposes that further analysis of both the Upstream Capacity Payment (UCP) and the Upstream Connection Adder (UCA), specifically for whether they are premised on sound rate making principles, is advisable. The EDA notes that just and reasonable rates are capable of recovering the costs incurred to provide service, and, allow an opportunity to earn the Allowed Rate of Return. The EDA seeks clarification of whether an LDC having remitted a contribution to a transmitter could apply either the UCP or the UCA to its incurred contribution – whether the transmitter has constructed the associated infrastructure or not.

The EDA notes that just and reasonable rates are expected to provide the rate regulated entity with an ongoing ability to access capital when needed. The EDA asks whether a financial 'stress' test should be conducted prior to the OEB issuing Final Rate Orders. The EDA suggests that the OEB continue its current practice of continuing to allow LDCs to include these costs in rate base and to recover the associated revenue requirement through OEB authorized rates.

Record Keeping, Precision, Materiality

LDCs are keenly aware of the need for correct and accurate record keeping. Several of the proposed amendments will increase the number of customers and assets that the LDC must keep additional records on, increase the nature of the data required, give rise to a need to accurately capture changes in loads and the date on which the change occurs, and increase the period over which the data is retained. All LDCs are striving to responsibly keep the costs they incur as low as possible so that the rates that recover these costs are kept as low as possible and, as stated elsewhere, rates can be used to support decision making. LDCs will benefit from OEB guidance on whether data can be averaged, or if proxies can be used for homogeneous customer classes, as administrative simplifications geared to controlling costs. LDCs will also benefit from OEB guidance on the materiality of costs or load levels such that increased record keeping costs are responsibly incurred. This is another instance in which transmitters and distributors differ, and the OEB's provision of regulation through Codes should be informed by this difference.

The EDA also seeks direction on how to quantify load in kW for those customers who are Smart Metered. The EDA notes that Smart Meters meter energy consumed, not demand.

Future Adjudicative Processes

LDCs seek guidance on the process that the OEB will rely on to test whether rates are just and reasonable upon specifying basic connection for all customer classes and the transition to mandatory contributions.

The “E3” LDCs – E.L.K., Entegrus and Essex PowerLines – all appreciate that the OEB’s adjudicative process on the allocation of costs among the E3 members and the impact to rate payers is pending. They will be the first LDCs to participate in the determination of rates that recover these costs supported by the application of analytical instruments, such as the Cost Allocation Study. All LDCs will benefit from the OEB’s adjudication of the apportioning of upstream transmission costs consistent with the beneficiary pays principle, the quantified impact on rates and bills, and, any mitigation that is considered appropriate to protect the public interest.

As is stated elsewhere in these comments, consumers need accurate rates to be able to make economically efficient decisions.

LDCs look forward to the OEB establishing this adjudicative process. LDCs suggest that the OEB consider the availability of specialized knowledge that each participant can bring to the public process and whether innovative steps should be taken to ensure that the record is robustly tested by equally qualified and prepared parties. The EDA notes that the LDC that seeks a transmission expansion once in a decade has a different level of familiarity and technical know-how than does an LDC that routinely plans for and accesses transmission expansions.

Consumer Facing Tools

All LDCs concur that consumers will benefit from OEB prepared examples and guidance. LDCs note that the proceedings of the Working Group’s third meeting have not been made publicly available. Releasing this document, and any others that have not previously been publicly posted, would support increased understanding of both the issues and the proposed resolution that is reflected in the proposed amendments.

The need for and benefits of having worked examples of the various proposed methodologies will improve all parties understanding and increase regulatory certainty. As an example, side-by-side analysis of the 3 approaches to funding capital contributions for upstream transmission connection investments will clarify the advantages and disadvantages of individual mechanisms and versus each other. Worked examples will remove uncertainty over the data to be used (e.g., average, peak, metered, engineered capacity, assumed deratings). LDCs have questioned the linkage or connection between these methodologies and the materiality threshold that is to be satisfied if an LDC is to be eligible to seek rate relief through an

Incremental Capital Module. As well, clarity of the regulatory accounting will help all parties understand the consequences when applying the costs to analytical instruments such as Cost Allocation. The EDA expects that the OEB will continue to allow LDCs to record contributions for transmission infrastructure as intangible assets and to allow them to be included in the distributor's rate base.

The EDA suggests that the OEB provide clarity on bill mitigation and, in addition, that it clearly distinguish between bill mitigation and rate mitigation. The EDA notes that mitigation achieved by deferred increases (or decreases) creates a financial impact to some party. All parties should understand the long-term operation and impact of mitigation, when initially provided, when unwound and upon removal. The EDA notes that the OEB sets just and reasonable rates and that other arms of government provide the programs and policies to address any economic or social consequences.

The lack of consumer oriented tools and appropriate clarifications to LDCs (e.g., worked examples) risk incorrect application of these techniques and, ultimately, economically inefficient decisions. Making such tools publicly available in advance of any proposed Code amendments coming into force will also provide an opportunity to test their operation and the impacts on LDCs and their customers and to avoid any unintended consequences.

Improved transparency

The EDA seeks improved transparency on the data and analysis that supports some of the quantified metrics referenced in the proposed Code amendments. The EDA is aware that its members will need to be appropriately prepared to help customers understand the considerations that informed the OEB's amendments (e.g., the proposed 3MW threshold, the proposed 5-year customer connection horizon versus the 15-year connection horizon, the elimination of LDC discretion with respect to seeking contributions, the proposal to recovery contributions on a one-time up front basis subject to rebate versus a rates based approach).

Mapping the Notice to the proposed Code amendments

The EDA notes that not all the proposed Code amendments readily map to the OEB's Notice. For example, sections 3.1.18 and 3.2.24 do not clearly link to the Notice and it is unclear whether the OEB considered the need to amend the TSC to allow a 15-year customer connection horizon when it decided to incorporate that provision in the DSC. Other proposed amendments are worded differently from the documentation provided in the Notice; for example, the proposed amendment to section 3.1.17, as worded, would apply to all customers, whereas the wording in the Notice applies it to customers greater than 3MW. Some proposed amendments will benefit from clear direction on applicability; for example, whether section 3.1.19, as proposed, applies to existing customers or to new customers.

Analysis of Proposed Distribution System Code Amendments

The EDA has reviewed the proposed amendments to the Distribution System Code (DSC). Its analysis and comments are provided below in the order in which they appear in the Ontario Energy Board's (OEB) Notice to Proposed Amendments to the Transmission System Code and the Distribution System Code (EB-2016-0003).

Section 1.2

The definition of customers does not readily encompass either moveable loads or moveable storage devices. It can be clarified in one of two ways:

- to explicitly list the devices or technologies that are considered customers;
- to reflect that a customer is an entity that the distributor provides service to on commercial terms and conditions where service is either the receipt of power and energy for redelivery or the delivery of power and energy.

The EDA questions whether the proposed definition, as worded, will appropriately treat a customer who in a previous period bypassed the LDC and in the current period, or a future period, seeks to connect to the LDC.

Section 3.1.5

Summary

LDCs note that the Cost Allocation Study may be a suitable tool to compute the basic connection recovered through currently approved rates.

Discussion

LDCs note that this amendment is not addressed in the Ontario Energy Board's (OEB) Notice. Accordingly, LDCs have little insight into the benefit the OEB expects to attain through codifying this provision. It should be recognized that specifying basic connection is more straight forward for homogeneous customer classes and less so for other customer classes.

The EDA suggests that the OEB engage distributors in analyzing the basic connection supported by currently authorized rates, for example using the OEB's Cost Allocation Study. This analysis may be useful when individual LDCs are responding to consumers' inquiries about the recovery of basic connection costs.

Section 3.1.17

Summary

The EDA questions the merits of codifying asset planning for the subset of assets that are at end of life. The EDA suggests that this issue may be better dealt with in Distribution System Plans (DSP) where end-of-life assets can be considered in the context of customers' needs and ongoing system evolution to meet those needs.

Discussion

LDCs note the OEB has not defined end-of-life and LDCs have little insight into the benefit that the OEB expects to attain through codifying this provision. LDCs seek clarification of the operation of this provision if the same customer in a future period seeks additional capacity. As is discussed below, the EDA questions the need to codify cost recovery of infrastructure deployed to address end-of-life considerations of legacy infrastructure.

The EDA proposes that the OEB monitor assets at end-of-life through the DSP and achieves an orderly approach to evaluating the condition of the subject asset and its ongoing ability to serve in the context of the customer's intended loading. The OEB should be open to situations where the appropriately sized asset will be of a lower capacity and that the currently authorized postage stamp rates will not be capable of recovering the costs of the right sized asset.

The provision, as drafted, appears to be premised on a geographic pocket of assets being replaced. If this provision is to be codified it should be re-worded to apply to a vintage of assets. The EDA observes that if end-of-life is decided based on age and condition that vintage of assets becomes a more relevant consideration and that it may be appropriate to engage customers across the service area. The OEB should be open to considering that other customers may also seek commensurate infrastructure and that in this case it may be more appropriate to recover the revenue requirement of such assets through changed postage stamp rates.

As an alternative LDCs will want to evaluate non-conventional distribution infrastructure solutions, such as Distributed Energy Resources (DER), as a means of continuing to provide service at an appropriate level and quality and at a reasonable charge.

LDCs need to have the resources to be able to reconfigure their infrastructure to support providing service safely at an appropriate level of reliability and quality and for a just and reasonable rate. From time to time this will include abandoning infrastructure, whether it has achieved its planned life, if not capable of serving for the foreseeable future or other technical reasons. The EDA is concerned that LDCs will be constrained from renewing their infrastructure or deploying new technologies if a contribution must be obtained.

Section 3.1.10

Summary

The EDA notes that there are few instances where an LDC obtains additional transmission connection capacity by connecting to another LDCs distribution system and questions the merits of codifying it. The EDA suggests that the OEB consider monitoring such activities through a policy and accompanying Filing Requirements.

Discussion

This provision codifies a situation that is not commonly encountered. The EDA suggests that the OEB consider alternative forms of regulatory oversight (e.g., policy guidance accompanied by Filing Guidelines). The affected public interest is unclear and may be clarified by analyzing whether any negative impacts will be experienced by either the customers of the facilitating distributor or if there are more benefits arising uniquely from the proposed connection.

The EDA observes that this section is clearly premised on the existence of under-utilized transmission assets and that this is a common occurrence early in an asset's service life. The proposed amendments pertain to power carrying capacity explicitly and would benefit from a more fulsome list of technical attributes (e.g., ability to mitigate voltage swings, loss reduction).

Policy guidance accompanied with Filing Requirements may provide LDCs with appropriate flexibility to deal with the different drivers or a form of agreement designed to protect consumers interests that is acceptable to the OEB and could provide clarity as to the nature of the Orders to be sought.

Section 3.1.1

Summary

The EDA seeks worked examples of the cost allocation contemplated in the proposed amendment. It is unclear whether LDCs are to use actual metered data or nameplate data. LDCs note that increased administrative costs may be incurred if the assets in question serve multiple small loads.

Discussion

The EDA notes that in the case of Hydro One Networks Inc.'s (HONI) SECTR Leave to Construct that the connection assets were determined to be providing network services. The EDA questions whether this repurposing of connection assets could occur at the distribution level in which case there is a risk that the proposed amendment would result in generators paying to use common use (or Networked) assets which is contrary to existing policy.

The application of this provision to storage devices needs clarification: is a storage device predominantly receiving deliveries or delivering to the system?

LDCs do not have working knowledge of the mechanics of computing rates expressed as dollars per MW per metre (e.g., whether additional allocators are appropriate) and seek worked examples to guide them in developing such rates, particularly for a first-time implementation. Worked examples provided by the regulator are expected to support the LDC's demonstration to the customer that the customer's interests are being protected.

Sections 3.1.20 and 3.1.21

Summary

LDCs question the need to codify the relocation of assets and note that section 3.4.1 of the DSC appears to provide adequate consumer protection. The EDA notes that incorporating the relocation of distributor owned assets in the DSP may be an acceptable form of regulatory oversight. Assuming codification is in the public interest the EDA seeks clarity from the OEB as to whether fully allocated costs or marginal costs are to be recovered from the customer. The EDA also notes that pursuant to the *Public Service Works on Highways Act*, municipalities cost responsibility is limited to 50%.

Discussion

This provision risks disincenting customers from seeking appropriately configured electricity infrastructure. The EDA is concerned that the proposed amendments may act to perpetuate infrastructure premised on engineering, design and layout in a prior period and to dampen consumers' willingness to seek efficient configurations. Distribution services could be rendered in a technically superior and economically favourable manner if the LDC has flexibility with respect to the provision of substitutable technologies (e.g., DERs, Storage devices) or innovative rates (e.g., curtailable, interruptible, tiered, service enhancements provided upon payment of a surcharge).

Section 3.2.4

Summary

LDCs acknowledge that seeking compulsory contributions is aligned with the beneficiary pays principle. LDCs also acknowledge that postage stamp rates augmented with expansion specific rate adders can achieve the same outcome through just and reasonable rates. There is an unaddressed question of the recovery of additional administrative costs.

Discussion

Distributors who must seek mandatory contributions need to be well prepared to respond to customer questions of the fairness of this approach and whether it is the base approach versus other alternatives. Distributors will need to be prepared to respond to customer suggestions that a contribution implies authorized rates are incapable of recovering the costs incurred to serve a particular load or site or both. If this provision is to be adopted its implementation should be considered in light of the proposed adoption of basic connection service for all customer classes.

Among the available rate making alternatives is to preserve the currently authorized rates and allow the LDC to recover a rate adder from the customer. Alternatively, an innovative solution – perhaps modelled on the rate making solution being applied to recover the costs of providing natural gas service to otherwise unserved parts of the province – may have merit. If either is considered advantageous the EDA proposes that it be robustly analyzed (e.g., through stakeholdering or role playing the activities required under the proposed amendment) and for whether LDC's existing IS/IT infrastructure can support such innovative solutions.

LDCs seek the OEB's analysis of whether mandatory contributions risk disincensing end users from deploying innovative technologies and, if so, how this unintended consequence can be overcome.

Section 3.2.4A

Summary

LDCs are unsure of the rationale supporting requiring explicit contributions from load customers greater than 3MW. LDCs seek additional information and analysis that demonstrates the benefit of seeking contributions from these customers and how it achieves a better alignment with the beneficiary pays principle versus the current practice of socializing these costs through rates. The EDA is concerned that the proposed amendment may disincense grid modernization and/or the optimal configuration of infrastructure.

Discussion

Currently, the revenue requirement of contributions remitted to the transmitter are socialized across all connected load customers. The OEB's documentation addressing the balancing of the interests that holds some large customers, those greater than 3MW, responsible for contributions should be provided so that LDCs can respond to customers' questions consistently. LDCs seek transparency on the OEB's balancing of the interests in order to comment on how the proposed amendment achieves appropriate consumer protection. LDCs note that the loads downstream of a transmission asset change over time, for instance as the LDC constructs and commissions lines emanating from transmission assets and reconfigures

feeders. LDCs seek OEB guidance on how to fairly administer this provision when downstream loads change.

This appears to be the first ever reference to customers greater than 3MW and in many respects, applies provisions that mimic the TSC. It implies that the need for service, infrastructure and consumer protection alters at that threshold. Again, without access to the Working Group's materials or to the OEB's analysis it is difficult to assess the reasonability of this threshold from a consumer protection perspective.

Section 3.2.5

Please see the comments made on section 3.2.4.

Section 3.2.20

Summary

The EDA seeks OEB guidance on the transition to the proposed amendment if a customer has previously entered into a Connection Agreement as well as guidance on whether an LDC will be considered in compliance if it seeks an expansion deposit of zero dollars.

Discussion

LDCs note that the proposed amendment requires that the LDC seek an expansion deposit, and permits the LDC discretion with respect to the amount to be provided. It appears that an LDC has the discretion to seek an expansion deposit of zero dollars, which is logically equivalent to not seeking an expansion deposit and appears to conflict with the requirement to seek an expansion deposit. LDCs seek clarity of their understanding of this provision. Customer provided expansion deposits are implicitly zero cost construction funds and absent access to these funds LDCs would need appropriate cash positions to support the acquisition of materials and other cash expenditures.

LDCs also seek OEB guidance on whether a materiality criteria should apply and note that such a device could appropriately discipline the administrative costs that LDCs may incur.

Section 3.2.21

No comment

Section 3.2.23

Summary

The EDA seeks worked examples of refund methodology that clearly addresses the scenario of changing connections and loads.

Discussion

Without access to the working papers or analysis it is difficult to comment on the proposal to rely on two different customer connection horizons. Because commercial enterprises experience business risk it would be appropriate for LDCs to know how to treat unrefunded deposits if the customer fails, chooses to exit the service area or their demand changes materially. The fairness of LDCs retaining a portion of the expansion deposit is unclear and LDCs are left to wonder whether retention should be supported by an analysis of the adequacy of the contribution. LDCs also seek OEB guidance on the appropriate regulatory accounting of expansion deposits.

LDCs will incur increased costs related to record keeping duties and maintaining customer contact information (e.g., as businesses are bought, sold, amalgamated, divested). If the greater than 3MW criteria applies to embedded LDCs the associated record keeping activities will be simplified and costs will be mitigated.

LDCs suggest that splitting this section into two provisions, one that applies to Residential and other small loads and the other that applies to loads greater than 3MW, will improve clarity.

Section 3.2.24

Summary

LDCs note that the proposed amendment will result in increased record keeping as the warranty period could, in the extreme case, begin 15 years after the infrastructure is energized. LDCs propose that the OEB amend section 3.2.24 to more readily link to the provisions set out in section 3.2.20.

Discussion

LDCs point out that the proposed amendment acts to push out the commencement of the warranty period. Under proposed amendment (a) there is a strong likelihood that premises will be bought and sold prior to the commencement of the period. LDCs seek clarity on the appropriate treatment of the portion of the expansion deposit upon sale and transfer of title. This clarity would benefit the administration of this portion of the expansion deposit which, in the extreme, could result in a warranty period that commences at the end of the 15-year customer connection horizon for loads greater than 3MW. LDCs

note that relatively few businesses endure for that period of time, and, those which do endure may be subject to business reorganization or restructuring.

LDCs also note that sections 3.2.20 and 3.2.23 could each be improved to clearly set out the allowed applications of expansion deposits and to quantify the allocation of funds among these purposes.

LDCs seek guidance on the conditions under which retained funds can be used to fulfill warranty period claims and on the policies, that protect consumers if an LDC is not able to fully comply with section 3.2.23 without reducing the expansion deposit to an amount less than the 10% identified in the proposed section 3.2.24.

The EDA proposes that, at a minimum, the wording of the proposed amendment omit the phrase "...within the two year warranty period."

Section 3.2.27

Summary

LDCs seek worked examples of recalculated contribution levels (e.g., for simultaneous changing loads of original customers and the connection of unforecasted customers).

Discussion

The EDA notes that many changes may occur over the longer customer connection horizon, including loads changes (i.e., increases in some years, decreases in other years). LDCs seek guidance from the OEB through worked examples of the cases that could occur.

LDCs also recognize that unforecasted customers may act strategically to gain access to unutilized capacity (e.g., by presenting higher than expected load forecasts). Accordingly, LDCs seek guidance from the OEB on the data to be acquired to guard against this situation. Conversely, if in the future, customers deploy technologies that materially reduce energy and demand should the customer be entitled to a rebate upon freeing up capacity or upon the freed-up capacity being utilized by an unforecasted customer?

LDCs seek additional clarification whether greater than 3MW loads include embedded distributors.

Section 3.5.1

Summary

The EDA looks forward to further clarification of this provision through worked examples and "Lessons Learned" by OEB licensed transmitters.

Discussion

The EDA notes that customers will benefit from OEB guidance on the application of this proposed amendment.

Consider for example, the situation where a customer operates under islanded conditions from the distribution system on a day-to-day basis but does not disconnect (e.g., the customer requires ongoing standby service from the LDC).

LDCs note that their business risk is somewhat different from that of transmitters. For example, under the proposed amendments, an LDC may seek and recover bypass compensation for an asset that ultimately is used to connect an unforecasted customer. LDCs should be prepared for such situations and be expected to explore such opportunities before seeking bypass compensation. OEB policy guidance (e.g., on recovering contributions, applying the rules governing unforecasted connections, applying the rules governing expansion deposits, the applicability of other proposed amendments, associated regulatory accounting) will be helpful and support LDCs in demonstrating to customers that their interests are being appropriately protected.

LDCs acknowledge that this policy has relevance to the OEB's methodology for setting the Allowed Return on Equity and to the OEB's Commercial and Industrial rate design review. LDCs and their customers will benefit from the clarification of how these policies inter-relate with each other.

LDCs point out that recovering bypass compensation may only be achieved upon a successful legal action and seek OEB regulatory accounting guidance should this come to pass.

Section 3.5.2

LDCs acknowledge that the exemptions described align with government policy and make no further comment.

Section 3.5.3

Summary

LDCs seek worked examples of how to compute bypass compensation and of the expected record keeping.

Discussion

LDCs typically use pooled accounting for infrastructure and seek OEB guidance as to the data required to support the calculation of bypass compensation (e.g., can an average Net Book Value (NBV) amount be used? should the NBV be specific to the year of installation?). LDCs also seek guidance on the data to be

used to quantify maximum load (e.g., peak metered data for the most recent 12 months? peak metered data on record for the customer intending to bypass? whether peak is net of connected generation or should reflect any deratings that have been implemented). LDCs would also benefit from increased awareness of and insight into transmitters experiences in computing bypass compensation and of strategies that customers can utilize to control down the amount of bypass compensation to be recovered.

Section Appendix B definitions

Summary

LDCs seek worked examples of refund methodology that clearly addresses the scenario of changing connections and loads.

Discussion

The EDA notes that the OEB's proposed definition explicitly describes that the revenues recovered through the Advanced Funding Mechanism will be approved by the OEB and will be collected before a contribution is required. The implication being that customers will remit revenues for costs not incurred. LDCs question this approach to rate making.